

Delaware's Property Tax Reassessment – Three Things Commercial Property Owners Should Know

Article

November/December 2022

Delaware Business Magazine

Delaware is among the few states that does not have a constitutional or statutory requirement to periodically adjust property values for purposes of real estate taxation. As a result, the last county-wide property tax reassessment took place in New Castle County effective 1983, Kent County effective 1987 and Sussex County effective 1974. As would be expected, the intervening decades have witnessed widely divergent rates of appreciation in market value amongst the hundreds of thousands of properties located throughout the State. According to civil rights activists and public education advocates, this has created unequal treatment of properties and inequities in the way public schools are funded. These circumstances were brought before the Delaware Court of Chancery in 2018, in the highly-publicized lawsuit, *In re Delaware Public Schools Litigation*, C.A. No. 2018-0029-JTL (Country Track), 2020 WL 2296888 (Del Ch. May 8, 2020).

In 2020, the Court of Chancery issued a landmark ruling, holding that Delaware's property tax system violated the Delaware Constitution, which requires all property owners to be taxed on an equal footing. The Court also ruled that Delaware statutory law had been violated, as it requires all property subject to taxation to be assessed at its "true value in money" (a concept similar to "fair market value").

In this article, Kate Betterly and retired partner Don Isken discuss three things commercial property owners should know about Delaware's property tax reassessments:

1. Status of Reassessments
2. Considerations Involved in Establishing "Fair Market Value"
3. Mechanisms for Reassessments and Appeals

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Donald N. Isken and Katherine H. Betterly, "Delaware's Property Tax Reassessment – Three Things Commercial Property Owners Should Know," *Delaware Business Magazine* (November/December 2022)

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